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7 UNITED STATES DISTRICT COURT
8 SOUTHERN DISTRICT OF CALIFORNIA
9

10 UNITED STATES OF AMERICA,

Case No. 18-cr-3677-W

11
12 Plaintiff,

Joint status report

13 v.

August 13, 2019 at 11:00 a.m.

14 DUNCAN D. HUNTER,

15 Defendant.
16
17

18 To aid the Court in preparation for the hearing on August 13, 2019, the
19 parties jointly submit this status report regarding the pending trial date.
20

21 A. Relevant Procedural History.
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23 On July 9, 2019, the Court denied Mr. Hunter's motion to dismiss the
24 indictment under the Speech or Debate Clause of the United States
25 Constitution. *See* Dckt. No. 75.
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27 On July 19, 2019, Mr. Hunter filed a Notice of Interlocutory Appeal from
28 that denial. *See* Dckt. No. 78.
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1 On July 22, 2019, the government filed a motion to dismiss the
2 interlocutory appeal with the Court of Appeals. *See* Dckt. No. 2 in USCA No.
3 19-50242.
4

5 On July 23, 2019, the Court of Appeals issued an order to show cause as
6 its jurisdiction. *See* Dckt. No. 3 in USCA No. 19-50242.
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8 Also on July 23, 2019, Mr. Hunter filed a motion with the Court of
9 Appeals for an extension of time to respond to both the government's motion to
10 dismiss and the order to show cause. *See* Dckt. No. 4 in USCA No. 19-50242.
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12 On July 24, 2019, the Court of Appeals granted Mr. Hunter's motion for
13 an extension of time. *See* Dckt. No. 5 in USCA No. 19-50242. Mr. Hunter's
14 consolidated response is now due September 6, 2019. The government intends
15 to file a reply brief. A three-judge panel will decide the motion to dismiss, once
16 briefing is complete.
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20 B. Joint Requests.
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22 In light of the above, the parties have met and conferred. They have
23 agreed to the following:
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25 First, in the interests of justice, the parties jointly request the Court
26 continue the trial date to October 29, 2019. This request is made without
27 prejudice to the litigation in the Court of Appeals. It does not moot
28 Mr. Hunter's interlocutory appeal or the government's motion to dismiss the
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1 appeal. The parties understand that, depending on the Court of Appeals'
2 resolution of the motion to dismiss, the trial date may be vacated.
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4 Second, the government intends to file a motion with this Court for a
5 finding of dual jurisdiction, such that the Court may preside over the trial while
6 the appeal is pending. Mr. Hunter will oppose that motion. The parties suggest
7 the following briefing schedule:
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- 10 a. The government's motion is due August 16, 2019.
- 11 b. Mr. Hunter's response in opposition is due August 23, 2019.
- 12 c. Hearing on September 3, 2019, or whenever it is convenient for the
13 Court.
14

15 If the Court grants the government's motion and determines it retains
16 jurisdiction, Mr. Hunter will seek a stay with the Court of Appeals, asking that
17 no trial take place until after the Court of Appeals decides the government's
18 motion to dismiss the interlocutory appeal.
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21 If the Court of Appeals grants Mr. Hunter's request for a stay and/or
22 denies the government's motion to dismiss, the parties agree to request a status
23 hearing where they will address a new trial date as soon as the Court of Appeals
24 returns the matter to this Court for further proceedings.
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Respectfully submitted
with the consent of all parties,

Dated: August 12, 2019

/s/ Devin Burstein
Devin Burstein
Warren & Burstein

Dated: August 12, 2019

/s/ Gregory Vega
Gregory Vega
Seltzer Caplan McMahon Vitek

Dated: August 12, 2019

/s/ Emily Allen
Emily Allen
Assistant United States Attorney

Signature Certification

I certify that all parties signing above are aware of the content of the
above document and have authorized me to sign for them.

Dated: August 12, 2019

/s/ Devin Burstein
Devin Burstein
Warren & Burstein